

won't use classified intelligence material in open court.

The military courts and the prosecutors in the military courts have been preparing for 18 months to try these five terrorists in military court. Now all of that's over, and all of that paperwork now is going to be turned over to Federal prosecutors who know nothing about the case, and they will start over with their investigation.

Now, the way I figure it, it's been 8 years since 9/11 occurred. How long is it going to be before these people are tried? No one knows, because the government is now not prepared and they'll have to start getting prepared.

Military tribunals have always been created in a time of war. War criminals and people on the battlefield who are captured are tried there. And now we're making some exception, and the reason is we don't know. We don't know the reason why they're being tried in New York and why some of them, well, they're going to get their military trials. Maybe those are lower-ranked terrorists. Who knows. Nobody's talking in the Justice Department.

It does make a difference where a person is tried, whether he's tried in a Federal court or a military court, which has the jurisdiction. Let there be no mistake about it: these military courts have the jurisdiction to try these war criminals, but they are giving up their jurisdiction to the Justice Department.

For example, in 1993 in the World Trade Center bombing, prosecutors were required to turn over evidence to defense attorneys that included a large amount of intelligence secret information. Those intelligence documents were never supposed to be provided to anyone outside of the attorneys for each side. But guess what happened, Madam Speaker. Copies of those were later found in al Qaeda caves overseas. So much for secrecy.

We used to have Osama bin Laden's cell phone number, and we used it to track his movements and hundreds of calls he made back in 1998. It helped us to uncover members of the terrorist network prior to 9/11.

But during the Federal trial of four al Qaeda terrorists who blew up two American embassies in East Africa, the extent of our methods of intelligence of tracking the terrorists through using their cell phone numbers were disclosed. And not only were they disclosed; the phone records were made public to the whole world. So guess what. Terrorists quit using their cell phones and shut them off. Now they communicate with each other using different methods. This was the result of trials that took place in Federal court. The rules of evidence are different.

Doesn't anybody know we are at war and the rules of war ought to apply? And when we capture these people on the battlefield, when we capture these people who are at war with America,

we ought to try them in military tribunals.

Our anti-terrorist operations depend on secrecy. It makes the job of the FBI and Homeland Security agents harder when the methods they use are publicized in open court. And it doesn't seem to me to make any sense why we would want to make all of the evidence that we have obtained against these five terrorists public record.

One more example: the 20th hijacker, Moussaoui, escaped the death penalty during his Federal trial, and here's the reason why: the court ruled the evidence of his participation in the 9/11 plot from his own computer was not admissible in a Federal courtroom. And without that evidence, the Feds had to settle for a life sentence. Thus he avoided the death penalty.

Much of the evidence against Khalid Sheikh Mohammed was gathered through interrogations, and now unless the interrogators read this individual his Miranda rights before water-boarding, it makes us wonder whether the evidence obtained against him lawfully under military rules will be admissible in Federal court.

Federal courts were never intended to deal with wartime situations; military courts have always been the reason. And now we're going to allow this individual to have center stage in New York City to be tried and maybe possibly convicted and become an international martyr on the international stage. It makes no sense. They ought to be sent back to Guantanamo.

And that's just the way it is.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 16, 2009.

Hon. NANCY PELOSI,
Speaker, The Capitol, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 16, 2009, at 12:17 p.m.:

That the Senate passed S. 1422.
Appointments:
United States-China Economic Security
Review Commission.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,
Clerk of the House.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. GRIFFITH) is recognized for 5 minutes.

(Mr. GRIFFITH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Madam Speaker, I submit for the RECORD an editorial by David Broder, Friday, November 13, and the title is "Half Done on Health Reform."

Madam Speaker, I'm reading from this editorial some points that I would like to share with the House tonight:

"At least a dozen health and budget experts have filled the Web and airwaves with warnings that the House bill simply postpones the cost controls needed to finance the vast expansion of insurance coverage and Medicare benefits envisaged by its sponsors.

"One of them speaks with special authority: David Walker, the former head of the Government Accountability Office, the auditing and investigating arm of Congress, told me in an interview on Wednesday that the lawmakers are 'punting on the tough choices rather than making sure they can deliver on the promises they're making.'

"In a speech delivered less than 48 hours after the House acted, Walker, now president of the Peter G. Peterson Foundation, laid out the tests that buttress his conclusion.

"Acknowledging that 'clearly we need radical reconstructive surgery to make our health care system effective, affordable, and sustainable', Walker cautioned that 'what we should not do is merely tack new programs onto a system that is fundamentally flawed and rapidly driving the national budget into ruin.'

I further read from the editorial: "A separate Lewin Group study of the Finance Committee bill from which Majority Leader HARRY REID is working on in the Senate shows it is almost as much of a fiscal failure as the House bill.

"Walker, a close observer and former employee of Congress, calls that assumption 'totally unrealistic.' In reading his analysis and the comments of the many others who have appraised the House handiwork, it becomes clear that unless something intervenes, Congress is headed toward repeating a familiar pattern. Just as it did under Republican control in the George W. Bush years when it passed but did not pay for a Medicare prescription drug benefit, it is about to hand out the goodies

and leave it to the next generation to pick up the bill.”

Madam Speaker, before closing, as I always do on the floor because my heart aches for those who have given their lives in Afghanistan and Iraq and those who have been wounded, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God in His loving arms to hold the families who have given a child dying for freedom in Afghanistan and Iraq. And I ask God to please bless the House and Senate, that we would do what is right in the eyes of God. And I ask God to give strength, wisdom, and courage to the President of the United States that he will do what is right in the eyes of God for this country.

I close three times by asking God please, God please, God please continue to bless America.

[From the Washington Post, Nov. 13, 2009]

HALF DONE ON HEALTH REFORM

(By David S. Broder)

While House Democrats spent the week congratulating themselves for squeezing out the midnight passage of their version of health-care reform, neutral observers were reminding them: You’ve left the job half done.

Having watched Hillary and Bill Clinton try and fail even to bring their version of health reform to a vote, I can certainly join in saluting Speaker Nancy Pelosi, her leadership team and the Obama White House for maneuvering the 1,990-page behemoth to harbor.

But, as many sympathetic voices have been telling them: Unless you find more realistic ways of paying for the promises included in the bill, you are simply setting up the public for more frustration—and yourselves for a political backlash.

At least a dozen health and budget experts have filled the Web and the airwaves with warnings that the House bill simply postpones the cost controls needed to finance the vast expansion of insurance coverage and Medicaid benefits envisaged by its sponsors.

One of them speaks with special authority: David Walker, the former head of the Government Accountability Office—the auditing and investigative arm of Congress—told me in an interview on Wednesday that the lawmakers are “punting on the tough choices, rather than making sure they can deliver on the promises they’re making.”

In a speech delivered less than 48 hours after the House acted, Walker, now president of the Peter G. Peterson Foundation, laid out the tests that buttress his conclusion.

Acknowledging that “clearly, we need radical reconstructive surgery to make our health-care system effective, affordable and sustainable,” Walker cautioned that “what we should not do is merely tack new programs onto a system that is fundamentally flawed”—and rapidly driving the national budget into ruin.

He proposes a four-part test of fiscal responsibility for any health reform plan: “First, the reform should pay for itself over 10 years. Second, it should not add to deficits beyond 10 years. Third, it should significantly reduce the tens of trillions of dollars in unfunded health promises that we already have. Fourth, it should bend down—not up—the total health-care cost curve as a percentage of” gross domestic product.

An analysis by the Lewin Group shows that the Energy and Commerce Committee

bill that was the basic blueprint for the House measure comes close to meeting the first of those tests and fails the other three, according to Walker, “by a wide margin.”

A separate Lewin Group study of the Finance Committee bill from which Majority Leader Harry Reid is working on the Senate legislation shows it is almost as much of a fiscal failure. It fails the fourth test, falls short on the third, and passes the first two only by assuming that future Congresses will force reductions in reimbursements to doctors and hospitals that lawmakers in the past have refused to impose.

Walker, a close observer and former employee of Congress, calls that assumption “totally unrealistic.”

In reading his analysis—and the comments of the many others who have appraised the House’s handiwork—it becomes clear that unless something intervenes, Congress is headed toward repeating a familiar pattern. Just as it did under Republican control in the George W. Bush years, when it passed but did not pay for a Medicare prescription drug benefit, it is about to hand out the goodies and leave it to the next generation to pick up the bill.

The Senate could still reduce the damage. If it began to move away from the fee-for-service payment system that rewards doctors and hospitals on the quantity of procedures they perform, rather than on the results of the treatment, that would help. If it reduced the biggest single loophole in the revenue system—the tax-exempt status of employer-provided health benefits—that would help a lot.

Otherwise, while congratulating one another for an overdue piece of social legislation, lawmakers could end up condemning our children to a far worse financial future than they deserve.

A TRIBUTE TO LIEUTENANT CHARLES MAGGART

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, I rise tonight to pay the long overdue respects of a grateful Nation to First Lieutenant Charles L. Maggart from Marion, Indiana, who fell serving his country in the U.S. Army Air Force during World War II.

Charles Maggart was born in November of 1919 and attended Marion High School in Indiana, where he was an honor student as well as a football and basketball star. In fact, his outstanding athletic ability earned him scholarship offers in 1938 from both Indiana University and the University of New Mexico. Charles chose the University of New Mexico. However, with the clouds of war looming over Europe, Charles returned to Indiana to attend Marion College, today Indiana Wesleyan University, where he took flying lessons.

In April of 1941, Charles applied for and was accepted into the Army Air Force. Upon completing basic flight training at Parks Air College in St. Louis and Randolph Air Field in San Antonio, Texas, Charles was assigned to Ellington Field in Houston, Texas, for advanced flight training.

On December 12, 1941, just 5 days after the bombing of Pearl Harbor,

Charles Maggart, until then a sergeant major of cadets, earned his pilot’s wings and his lieutenant’s bars. He also married his wife, then First Lieutenant Yolanda Federico. The next day he departed for Morrison Field, Florida, for assignment to the 49th Pursuit Group, Ninth Pursuit Squadron; but he was fairly quickly reassigned from fighters to bombers, ending up with the 405th Bombardment Squadron, 38th Bomb Group, Fifth Air Force 38th flying out of Australia.

□ 1945

The group shipped out from California for Australia in April of 1942. On December 5, 1942, Lieutenant Charles Maggart’s war came to an end. Flying a B-25 bomber known as the “Happy Legend,” Lieutenant Maggart and his six-man crew set off to bomb Lae, a critical point along the northeastern coast of Papua, New Guinea. Lieutenant Maggart and his crew were shot down by the Japanese over the Owen Stanley Mountains. In January of 1943, Lieutenant Maggart’s wife and family were informed by the War Department that he was missing in action.

Lieutenant Maggart’s mother, waiting patiently, had reservations about his fate. After repeated letters to the War Department, in 1947 she was told that the aircraft and crew were never recovered and were probably lost at sea. It wasn’t until 1949 that Lieutenant Maggart and his crew was officially declared killed in action. Although a team of Australians reportedly reached the crash site in 1943, the area was still overrun with Japanese units, and little could be done to document the remains of the aircraft and crew. Except for the determination of Charles’ brother, Phil Maggart, and the families of the other crewmembers of the “Happy Legend,” that might be the end of the story.

Phil Maggart last saw his brother Charles in October of 1941, and for more than six decades, Phil has tried to find his brother and to bring him home. Working through government bureaucrats and private contacts even when he was serving with the U.S. Air Force around the world, including a tour of duty flying search-and-rescue missions in Vietnam, Phil never gave up asking questions, and ultimately he found answers. Thanks to the persistence of Phil Maggart, Lieutenant Charles Maggart has finally come home. And tomorrow, Tuesday, November 17, 2009, Lieutenant Charles Maggart and his crew will be interred together at Arlington National Cemetery, a fitting place of honor for true American heroes.

Madam Speaker, I respectfully ask that all of my colleagues join me in saluting Lieutenant Maggart and his valiant crew. God bless you, gentlemen, and thank you for your service to America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. INGLES) is recognized for 5 minutes.